THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :23066 of 2007

DATED:01-11-2007

BETWEEN:

M/s Mahalaxmi Motors Ltd.,
A company registered under Companies Act, 1956,
Rep., by its Managing Director and Share Holder,
R.Vijayakumar Rao,
Jubilee Hills, Hyderabad.

..... PETITIONER

AND

The Secretary to the Government of A.P.,
Revenue Department (Assignment-III)
Secretariat Buildings,
Hyderabad & 3 others.

.....RESPONDENTS

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ORDER:

Petitioner seeks a writ of mandamus directing the respondents to consider the regularization land transaction of the petitioner company in terms of G.O.Ms.No.508, dated 20-10-1995, and G.O.Ms.No.972, dated 04-12-1998, to an extent of 10491 sq.yards equivalent to 8772 sq.mts in S.Nos.82/P and 157/1/P in Thokatta, Bowenpally village, Hyderabad in favour of the petitioner company by collecting the market value as fixed by the respondents while quashing the impugned proceedings in Memo No.6681/Assn.III(2)2000, dated 03-08-2007, of the 1st respondent and further declare the action of the respondents in not considering the genuine request of the petitioner, as illegal, and arbitrary.

2. It is the case of the petitioner that he purchased 30 guntas of land in Sy.No.82, Bowenpally, Secunderabad vide registered sale deed, dated 03-01-1985, from its vendor-B.Ramender Reddy for valid consideration and entered into possession of the said land, and after purchasing the said land in 1985 it was developed. Whileso, as the Government initiated action to vacate the said premises, petitioner filed W.P.No.5954 of 1987 on the file of this Court which was dismissed as withdrawn with a liberty to file an application before the Government to regularize its possession and accordingly petitioner filed an application on 01-12-1993 seeking regularization. Thereafter the application of the petitioner was rejected by a non-speaking order

in Memo No.62799/Assn.III(2)/94-6, dated 06-12-1999. Aggrieved by the said order, petitioner filed W.P.No.15 of 2000 on the file of this Court, and this Court by order, dated 30-07-2001, while setting aside the said order of the Government, dated 06-12-1999, remitted the matter back to the Government for fresh consideration to pass appropriate orders taking into consideration the recommendations of the Collector, dated 22-10-1999, and also the Commissioner, dated 30-09-1997, within a period of two months from the date of receipt of the said order. In the meanwhile, 3rd respondent-District Collector, Hyderabad filed L.G.C.No.7 of 2000 before the Special Court under the A.P.Land Grabbing (Prohibition) Act, 1982 alleging that the petitioner is a land grabber and the Special Court allowed the said case filed by the State of A.P., represented by the 4th respondent-Mandal Revenue Officer, Tirumalgherry mandal, by order, dated 11-08-2004. Aggrieved by the said order, petitioner filed W.P.No.15920 of 2004 on the file of this Court which was dismissed by order, dated 30-04-2007. It is stated that against the said order petitioner filed Special Leave Petition and the same was also rejected on 15-10-2007. Before the Special Leave Petition was rejected, Government passed the impugned order in Memo No.6681, dated 03-08-2007, rejecting the request of the petitioner to regularize the said Government land in Sy.No.157/1, Thokatta village, Tirumalgherry Mandal and Sy.No.82 of Bowenpally village, Tirumalgherry mandal.

3. It is stated that the impugned memo rejecting the request of the petitioner without assigning any reasons and reiterating the order of the earlier Government, dated 06-12-1999, is illegal, arbitrary, and contrary to the aforesaid

scheme in terms of G.O.Ms.No.508, dated
20-10-1995.

4. I have considered the contention of the learned counsel appearing for the petitioner and heard the arguments of the learned Government Pleader. It is not in dispute that the petitioner purchased the said extent of land of 10491 sq.yards equivalent to 8772 sq.mts in Sy.No.82 situated in Bowenpally village, in Sy.No.157/1 situated at Tokhata village of Tirumalgherry mandal vide two registered sale deeds, dated 03-01-1985, and 05-01-1985, and the petitioner is a company registered and incorporated under the Companies Act. The said lands were purchased from the said Ramender Reddy. It is also not in dispute that the application filed by the petitioner for regularization of its possession was rejected by the Government in Memo No.62799/Assn.III(2)/94-6, dated 06-12-1999, and the said memo was set aside by this Court in W.P.No.15 of 2000 and the matter was remitted back to the Government. After rejection of the petitioner's representation, dated 03-09-1994, by the aforesaid memo, dated 06-12-1999, Government filed the said L.G.C., which was allowed on 11-08-2004 and the order of the Special Court has been upheld by this Court and also by the Supreme Court.

5. Learned Government Pleader relied on a judgment of the Supreme Court in civil Appeal No.4755/2007 filed against the judgment of this Court in W.P.No.15920 of 2004, which was dismissed by this Court on 30-04-2007 against which Special Leave Petition No.9148 of 2007 was filed which was numbered as Civil Appeal No.4755 of 2007 after granting leave. Therefore, it is not correct that the Special Leave Petition was dismissed but leave was granted and the Supreme Court dismissed the Civil

Appeal No.4755 of 2007 by order, dated 10-10-2007.

6. A perusal of the judgment of the Supreme Court goes to show that the Supreme Court has taken note of the purchase of the land of the petitioner's company in January, 1985 from one Mr.Ramender Reddy and the petitioner along with others filed W.P.Nos.8734 to 7837 of 1983 etc., which were dismissed by the learned single Judge of this Court on
06-03-1987 holding that in view of Section 3(1) of the A.P. (Telangana Area) Abolition of Inams Act, 1955 (for brevity, 'the Act') the lands in question were vested in the State and the said judgment has attained finality and the Special Leave Petition preferred against the said judgment has been dismissed by the Supreme Court. However, petitioner herein despite the knowledge of the aforesaid judgment, dated 06-03-1987, made huge investments by raising constructions thereupon and a notice under the A.P.Land Encorachment Act, 1905 was also issued to the petitioner on 27-04-1987 describing the company as an encroacher, and questioning the legality of the said notice petitioner filed W.P.No.5954 of 1987 and during pendency of the same petitioner filed an application for regularization of the said land before the State. It is stated that the petitioner was asked to withdraw the Writ Petition so as to enable the Government to examine the issue of regularization of possession, subject, ofcourse, to the payment of the market value of the land. Despite the same, the Collector allegedly made recommendations for regularization of the said land in favour of the appellant, the said W.P.No.5954 of 1987 was dismissed by this Court on 04-06-1996 holding that as the vendor of the petitioner has failed to get occupancy certificate in their favour, the petitioner who is claiming under its vendor cannot obtain any relief in the Writ Petition and the same was accordingly dismissed. Accordingly, six weeks'

time was granted for obtaining appropriate orders from the concerned authorities. Thereafter, the request of the petitioner was rejected by the earlier Government memo dated 06-12-1999. Aggrieved by the same, petitioner filed W.P.No.15 of 2000 and during the pendency of the same, LGC has been filed to declare that the petitioner is a land grabber and to evict the petitioner from the application schedule land and for other reliefs.

7. The Supreme Court having considered the rival contentions, the earlier rejection order, and the resumption order of this Court etc., held that the predecessor in interest of the petitioner's vendor-Ramender Reddy was claiming the said land as if it was a grant of inam which was rejected by this Court in W.P.No.8734 of 1983 holding that the said vendor of the petitioner is not entitled for grant of occupancy certificate and the petitioner also has not acquired any title by adverse possession and admittedly the notice under the A.P.Land Encroachment Act has been served and the Writ Petition filed by the petitioner was also dismissed and the observations made by the learned single Judge of this Court that its application for regularization may be disposed of in the manner specified therein did not and could not have clothed the appellant with a legal entitlement thereto.

8. In view of the aforesaid observation of the Supreme Court it is not open for the petitioner that as per the judgment of this Court in W.P. 15 of 2000 while setting aside the aforesaid rejection order, dated 06-12-1999, directing the Government to pass appropriate orders taking into consideration the recommendation of the Collector, dated
22-10-1994, and the Commissioner, dated 30-09-1997, did not and could not have clothed the petitioner herein with legal entitlement thereto. The Apex Court after holding that it is one thing to say that

by reason of the direction of the High Court its application for regularization of the land was liable to be considered but it is another thing to say that its possession thereto became lawful or otherwise it became legally entitled to possess the land. Right to possess the land must be referable to the title of the land not to mere entitlement of its application for regularization to be considered. It was contended before the Supreme Court that in fact, the rejection order by the Government in the impugned memo No.8881, 8681 Assn.III (2)/2000, dated
03-08-2007, was also dealt with by the Supreme Court and a statement was made that the order of the Government, dated 03-08-2007, is not a speaking order, but the Supreme Court declined to consider the said contention.

9. Having regard to the facts and circumstances it is just and proper to extract the said order:

> "Submission of the learned counsel that even an order, dated 03-08-2007, is not a speaking order cannot be considered in this application. However, from the perusal of the said order, it is evident that therein all relevant circumstances have been taken into consideration. Recommendations made by the Collector or the Commissioner for regularization of the land are not binding on the State.

10. In view of the aforesaid judgment of the Supreme Court I am of the opinion that it is not open for this Court to consider the aforesaid contentions about the legality and validity of the aforesaid order, dated 03-08-2007. I do not see any merits in this Writ Petition.

11. Accordingly, Writ Petition is dismissed. There shall be no order as to costs.

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V.ESWARAIAH,J

01st November, 2007.
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